

Office of the Secretary of Defense

§ 321.12

§ 321.10 Disclosure to other than subject.

(a) *General.* No record contained in a system of records maintained by DSS shall be disclosed by any means to any person or agency outside the Department of Defense, except with the written consent or request of the individual subject of the record, except as provided in this section. Disclosures that may be made without the request or consent of the subject of the record are as follows:

(1) To those officials and employees of the Department of Defense who have a need for the record in the performance of their duties, when the use is compatible with the stated purposes for which the record is maintained.

(2) Required to be disclosed by the Freedom of Information Act.

(3) For a routine use as described in DoD Directive 5400.11.

(4) To the Census Bureau, National Archives, the U.S. Congress, the Comptroller General or General Accounting Office under the conditions specified in DoD Directive 5400.11.

(5) At the written request of the head of an agency outside DoD for a law enforcement activity as authorized by DoD Directive 5400.11.

(6) For statistical purposes, in response to a court order, or for compelling circumstances affecting the health or safety of an individual as described in DoD Directive 5400.11.

(7) Legal guardians recognized by the Act.

(b) *Accounting of disclosures.* Except for disclosures made to members of the DoD in connection with their routine duties, and disclosures required by the Freedom of Information Act, an accounting will be kept of all disclosures of records maintained in DSS systems.

(1) Accounting entries will normally be kept on a DSS form, which will be maintained in the record file jacket, or in a document that is part of the record.

(2) Accounting entries will record the date, nature and purpose of each disclosure, and the name and address of the person or agency to whom the disclosure is made.

(3) An accounting of disclosures made to agencies outside the DoD of records in the Defense Clearance and Investiga-

tions Index (V5-02) will be kept as prescribed by the Director of Systems, DSS.

(4) Accounting records will be maintained for at least 5 years after the last disclosure, or for the life of the record, whichever is longer.

(5) Subjects of DSS records will be given access to associated accounting records upon request, except as exempted under § 321.13.

§ 321.11 Fees.

Individuals may request copies for retention of any documents to which they are granted access in DSS records pertaining to them. Requestors will not be charged for the first copy of any records provided; however, duplicate copies will require a charge to cover costs of reproduction. Such charges will be computed in accordance with DoD Directive 5400.11.

§ 321.12 Penalties.

(a) An individual may bring a civil action against the DSS to correct or amend the record, or where there is a refusal to comply with an individual request or failure to maintain any record with accuracy, relevance, timeliness and completeness, so as to guarantee fairness, or failure to comply with any other provision of 5 U.S.C. 552a. The court may order correction or amendment. It may assess against the United States reasonable attorney fees and other costs, or may enjoin the DSS from withholding the records and order the production to the complainant.

(b) Where it is determined that the action was willful or intentional with respect to 5 U.S.C. 552a(g)(1) (C) or (D), the United States shall be liable for the actual damages sustained, but in no case less than the sum of \$1,000 and the costs of the action with attorney fees.

(c) Criminal penalties may be imposed against an officer or employee of the DSS who fully discloses material, which he knows is prohibited from disclosure, or who willfully maintains a system of records without the notice requirements; or against any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false